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7 UNITED STATES DISTRICT COURT FOR THE
8 WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 UNITED STATES OF AMERICA,

No. C13-5169

11 Plaintiff,

12 v.
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14 **VERIFIED COMPLAINT FOR**
15 **FORFEITURE IN REM**
16
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\$23,460.00 IN UNITED STATES CURRENCY,
\$15,540.00 IN UNITED STATES CURRENCY,
2008 DODGE RAM 3500 PICKUP TRUCK, VIN
3D6WH46A58G112787, and
2007 DODGE RAM 3500 PICKUP TRUCK, VIN
3D6WG46A47G737389,

18 Defendants.
19

20 COMES NOW Plaintiff United States of America, by and through the undersigned
21 counsel, pursuant to Rule G of the Supplemental Rules for Admiralty or Maritime Claims
22 and Asset Forfeiture Actions, and alleges:

23 I. **NATURE OF ACTION**

24 1. This is a Complaint for the forfeiture *in rem* of the following property
25 (collectively “Defendant Property”), which is hereby alleged to constitute (i) property
26 constituting or derived from proceeds traceable to the crime of contraband cigarette
27 trafficking in violation of 18 U.S.C. § 2342(a), which is a “specified unlawful activity” under
28 18 U.S.C. § 1956(c)(7)(A), and thus, subject to forfeiture pursuant to 18 U.S.C.

1 § 981(a)(1)(C); and/or (ii) a vehicle involved in the violation of transportation of contraband,
2 as defined in 49 U.S.C. § 80302(a)(5), in violation of 49 U.S.C. § 80302(b) and 18 U.S.C.
3 § 2342(a), and thus, subject to forfeiture pursuant to 49 U.S.C. § 80303:

- 4 A. \$23,460.00 IN UNITED STATES CURRENCY;
- 5 B. \$15,540.00 IN UNITED STATES CURRENCY;
- 6 C. 2008 DODGE RAM 3500 PICKUP TRUCK, VIN
7 3D6WH46A58G112787; AND
- 8 D. 2007 DODGE RAM 3500 PICKUP TRUCK, VIN
9 3D6WG46A47G737389.

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11 II. JURISDICTION AND VENUE

12 2. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1345 and
13 1355, 18 U.S.C. § 981, and 49 U.S.C. § 80303.

14 3. This Court has venue pursuant to 28 U.S.C. §§ 1355 and 1395.

15 III. DEFENDANT PROPERTY

16 4. The Defendant Property is now, and during the pendency of this action will be,
17 within the jurisdiction of this Court.

18 5. The following-described Defendant Property was seized pursuant to the
19 execution of federal search and seizure warrants as follows:

20 A. The Defendant \$23,460.00 was seized on September 19, 2012, pursuant
21 to a federal search and seizure warrant executed on the Defendant 2007 Dodge Ram during a
22 traffic stop at the intersection of Washington State Highway 161 and Levee Road in
23 Puyallup, Washington. Case No. 3:12-mj-5160-03.

24 B. The Defendant \$15,540.00 was seized on September 19, 2012, pursuant
25 to a federal search and seizure warrant executed on the Defendant 2007 Dodge Ram during a
26 traffic stop at the intersection of Washington State Highway 161 and Levee Road in
27 Puyallup, Washington. Case No. 3:12-mj-5160-03.

1 C. The Defendant 2007 Dodge Ram 3500 was seized on September 19,
2 2012, pursuant to a federal seizure warrant executed during a traffic stop at the intersection
3 of Washington State Highway 161 and Levee Road in Puyallup, Washington. Case No.
4 3:12-mc-5037-011.

5 D. The Defendant 2008 Dodge Ram 1500 was seized on September 26,
6 2012, from 7924 E. River Road, Puyallup, Washington, pursuant to the execution of a
7 federal seizure warrant issued on September 18, 2012. Case No. 3:12-mc-5037-010.

8 6. The Defendant Property is now in the custody of the United States Marshals
9 Service in the Western District of Washington.

10 IV. ADMINISTRATIVE PROCESS

11 7. The Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) published
12 notice of the seizure and forfeiture proceedings concerning the Defendant Property on the
13 official government website, www.forfeiture.gov, beginning November 12, 2012, through
14 December 11, 2012. Exhibit 1.

15 8. On November 7, 2012, the Bureau of Alcohol, Tobacco, Firearms and
16 Explosives (“ATF”) sent timely notice of the seizure and administrative forfeiture
17 proceedings concerning the Defendant Property to the following parties via FedEx: Trina
18 Wheeler, Delbert Wheeler, Mountain Tobacco Distributing, Inc., King Mountain Tobacco,
19 and Curtis Yallup. All of the above parties received said notice except for Curtis Yallup.

20 9. On December 10, 2012, ATF received claims from attorney Richard
21 Troberman on behalf of the following claimants:

- 22 A. Delbert Wheeler for the Defendant 2008 Dodge Ram;
- 23 B. Delbert Wheeler for the Defendant 2007 Dodge Ram;
- 24 C. Trina Wheeler for the Defendant 2008 Dodge Ram;
- 25 D. Trina Wheeler for the Defendant 2007 Dodge Ram;
- 26 E. Mountain Tobacco Distributing for the Defendant \$23,460; and
- 27 F. Mountain Tobacco Distributing for the Defendant \$15,540.

28 Exhibit 2.

V. RELATED CIVIL FORFEITURE CASE

10. On November 16, 2012, the United States filed a Verified Complaint for Forfeiture *In Rem* in a related civil forfeiture case, *United States v. 1,785,000 Contraband Cigarettes, et al.*, Case No. 3:12-cv-5992-BHS.

VI. FACTUAL BASIS FOR FORFEITURE

6 11. Beginning in 2011, federal officials began an investigation of trafficking in
7 contraband cigarettes focusing on the states of Washington and Idaho. From February 2005
8 and continuing into 2012, unstamped contraband cigarettes were sold to undercover
9 agents/officers from the ICSS main store and drive-thru, both located in Puyallup,
10 Washington, in violation of state and federal law. In addition to the illegal sale of
11 contraband cigarettes, the investigation revealed the illegal shipment of unstamped
12 contraband cigarettes to the ICSS main store and drive-thru from inside and outside the state
13 of Washington in violation of state and federal law.

12. On September 19, 2012, based on the information gathered and referenced
above, agents with ATF executed federal search and seizure warrants on the ICSS main store
and drive-thru as well as two related residences. ATF located and seized approximately
1,784,000 contraband cigarettes of assorted brands at the ICSS main store and approximately
707,800 contraband cigarettes of assorted brands at the ICSS drive-thru. Also seized
pursuant to the search warrants were business and financial records, which contained
information identifying at least two of the businesses/individuals, one in the state of
Washington and one in Idaho, who had been supplying contraband cigarettes to the ICSS
main store and drive-thru, in the form of sales/shipments exceeding 10,000 cigarettes, in
violation of state and federal law. Utilizing the records recovered during the searches,
together with records and information obtained from other sources, the agents/officers were
able to identify the details of many of the shipments of contraband cigarettes, including dates
and approximate amounts for about a six month period, from March 2012 to September
2012. Based on the foregoing violations, and the federal search and seizure warrants, ATF

1 agents/officers seized the Defendant Property on September 19, 2012 (except for the 2008
2 Dodge Ram 1500, which was seized on September 26, 2012).

3 13. Additional facts supporting the forfeiture of the Defendant Property are set
4 forth in the Affidavit of ATF Task Force Officer J. Mark Keller in Support of Seizure
5 Warrants, and attachments referenced therein, attached hereto as "Exhibit 3" and
6 incorporated as if fully set forth herein.

VII. LEGAL BASIS FOR FORFEITURE

8 14. By reason of the foregoing, there is probable cause to believe that the
9 Defendant Property is:

10 A. property constituting or derived from proceeds traceable to the crime of
11 contraband cigarette trafficking, in violation of 18 U.S.C. § 2342(a), which is a “specified
12 unlawful activity” under 18 U.S.C. § 1956(c)(7)(A), and therefore subject to forfeiture to the
13 United States pursuant to 18 U.S.C. § 981(a)(1)(C); and/or

14 B. a vehicle involved in the violation of transportation of contraband, as
15 defined in 49 U.S.C. § 80302(a)(5), in violation of 49 U.S.C. § 80302(b) and 18 U.S.C. §
16 2342(a), and therefore subject to forfeiture to the United States pursuant to 49 U.S.C. §
17 80303.

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WHEREFORE, the United States prays that due process is issued to enforce the forfeiture of the Defendant Property, that due notice be given to all interested persons to appear and show cause why forfeiture of the Defendant Property should not be decreed, that the Defendant Property be condemned as forfeited to the United States to be disposed of according to law, and for such other and further relief as this Honorable Court may deem just and proper.

DATED this 7th day of March, 2013.

Respectfully submitted,

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United States Attorney

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VERIFICATION OF COMPLAINT

STATE OF WASHINGTON)
COUNTY OF YAKIMA)
ss)

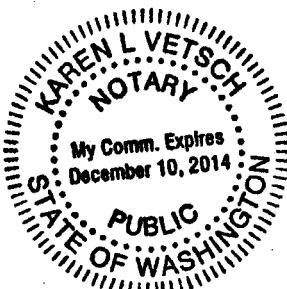
5 I, ATF Task Force Officer J. MARK KELLER, declare under penalty of perjury that
6 the following is true and correct to the best of my knowledge: I am a Task Force Officer with
7 the United States Bureau of Alcohol, Tobacco, Firearms and Explosives, and am assigned to
8 assist with this case. I have read the attached Complaint and know the contents thereof; I
9 have furnished the information contained in the Complaint based upon my own investigation
10 and that of other reliable official government sources; and, based on information and belief,
11 the allegations contained in the Complaint are true.

EXECUTED this 6th day of March, 2013.

J. MARK KELLER
Task Force Officer
Bureau of Alcohol, Tobacco, Firearms & Explosives

SUBSCRIBED and SWORN to before me this 6th day of March, 2013, by J. Mark Keller.

NOTARY PUBLIC, State of Washington
My Commission expires: 12-10-2014



**VERIFIED COMPLAINT FOR FORFEITURE *IN REM*
U.S. v. \$23,460.00 in U.S. Currency, et al.**

UNITED STATES ATTORNEY
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